

**State of Maine
Department of Environmental Protection
Bureau of Land and Water Quality**

**General Permit for the Discharge of Stormwater from Small
Municipal Separate Storm Sewer Systems**



General Permit--Municipal Separate Storm Sewer Systems

Maine Pollutant Discharge Elimination System (MEPDES)

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PART I. General Permit Coverage

A. General coverage of this permit. This general permit authorizes the direct discharge of stormwater from or associated with a regulated small municipal separate storm sewer system ("MS4") to a MS4 or waters of the State other than groundwater. Discharges must meet the requirements of this general permit and applicable provisions of Maine's waste discharge and water classification statutes and rules. Compliance with this general permit authorizes a person to discharge stormwater, pursuant to 38 M.R.S.A. § 413, as described below. Discharges listed in Part I(C)(2-6) are excluded from coverage under this general permit. This general permit authorizes direct discharges in those parts of Maine for which the Department has received delegated authority under the federal NPDES program.

1. Effective date of this general permit. This general permit is effective June 3, 2003, and authorization to discharge under this general permit expires June 2, 2008.

2. Waiver of authorization. The Department may grant a waiver of authorization to a regulated small MS4 if:

- a. The population within the Urbanized Area portion of the municipality is less than 1,000, and stormwater from the MS4 is not causing the impairment of a receiving water body; and
- b. The MS4 does not contribute substantially to the pollutant load of a physically interconnected MS4.

B. Authority. A permit is required for the direct or indirect discharge of pollutants to waters of the State.¹ A general permit may be issued for point discharges (direct discharges) of stormwater.² A violation of a condition or requirement of a general permit constitutes a violation of Maine's water quality laws and the federal Clean Water Act, and subjects the discharger to penalties under 38 M.R.S.A. § 349, and § 309 of the Clean Water Act. Nothing in this general permit is intended to limit the Department's authority under the waste discharge and water classification statutes or rules. This general permit does not affect requirements under other applicable Maine statutes such as Site Location of Development (Site Law), Stormwater Management, and Natural Resources Protection (NRPA).

This general permit does not prevent a municipality from adopting stricter standards than contained in this general permit, or in state or federal law.

C. Limitations on coverage. This general permit does not authorize a stormwater discharge that requires an individual waste discharge permit or is required to obtain coverage under another waste discharge general permit. The Department may require any person with a discharge authorized by this general permit to apply for and obtain an individual permit or an alternative general permit.³ Any interested person may petition the Department to take

¹ See 38 M.R.S.A. § 413.

² See 06-096 CMR 529(2)(a)(2)(i).

³ See 06-096 CMR 529(2)(B)(3).

action under this paragraph. Examples of when an individual waste discharge permit may be required are specified in rule.⁴

1. **Compliance with this general permit.** This general permit does not authorize a stormwater discharge that is not in compliance with the requirements of this general permit. If the Department determines that the standards of this general permit have not been met, the Department shall notify the person and may:
 - a. Authorize coverage under this general permit after appropriate controls and implementation procedures designed to bring the discharge into compliance with this general permit and water quality standards have been implemented as determined by the Department;
 - b. Require an individual waste discharge permit; and/or
 - c. Inform the person that the discharge is prohibited.

Compliance with this subparagraph does not preclude any enforcement activity under Maine law for an underlying violation.

2. **Non-stormwater.** This general permit does not authorize discharges that are mixed with sources of non-stormwater, other than those discharges in compliance with Part IV (D)(3)(b).
3. **Discharge of hazardous substances, chemicals, or oil.** This general permit does not authorize the discharge of hazardous substances, chemicals, or oil resulting from an on-site spill.
4. **Total maximum daily load (“TMDL”).** This general permit does not authorize a direct discharge that is inconsistent with any EPA approved TMDL waste load allocation and any implementation plan for the waterbody to which the direct discharge drains. This general permit does not authorize a discharge to an impaired waterbody for which the Department has issued a watershed-specific general permit.
5. **Violation of water quality standards.** This general permit does not authorize a discharge that may cause or contribute to a violation of a water quality standard.
6. **Waste discharge license (groundwater).** A waste discharge license (“WDL”) may be required for the discharge of stormwater through any well or wells, including drywells and subsurface fluid distribution systems. For complete requirements, see 06-096 CMR 543.

A “subsurface fluid distribution system” is an assemblage of perforated pipes, drain tiles, or similar mechanisms intended to distribute fluids below the surface of the ground. A “well” is a bored, drilled, or driven shaft the depth of which is greater than the largest surface dimension, whether the shaft is typically dry or contains liquid; or a dug hole the depth of which is greater than the largest surface dimension; or a subsurface fluid distribution system. “Well injection” means the subsurface discharge of fluids into or through a well.

7. **Reopener.** This general permit may be modified or reopened as provided in 38 M.R.S.A. § 414-A(5).

PART II. Definitions

In addition to the definitions found in Chapter 520 of the Department's rules, and applicable statutory definitions, the following terms have the following meanings when used in this general permit.

⁴ See 06-096 CMR 529(2)(B)(3).

- A. Applicant.** “Applicant” means a municipality, sanitary or sewerage district, State agency or Federal agency, which files a registration pursuant to Part III of this general permit.
- B. Best Management Practices (“BMP”).** “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- C. Common plan of development or sale.** A “common plan of development or sale” means a subdivision under municipal law as determined by the municipality where the subdivision is located.
- D. Construction activity.** “Construction activity” or “activity” means:
1. Construction activity including one acre or more of disturbed area, or activity with less than one acre of total land area that is part of a common plan of development or sale, if the common plan of development or sale will ultimately disturb equal to or greater than one acre;⁵ or
 2. Any other construction activity designated by the Department based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the State.
- E. Department.** “Department” means the State of Maine Department of Environmental Protection.
- F. Discharge.** “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to “waters of the State”.⁶ “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.⁷
- G. Disturbed area.** “Disturbed area” is clearing, grading and excavation.⁸ Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered “disturbed area”. “Disturbed area” does not include routine maintenance but does include redevelopment. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility.
- H. Illicit Discharge.** “Illicit Discharge” means any non-permitted discharge to a regulated small MS4 or to the waters of the State that does not consist entirely of stormwater or allowable non-stormwater discharges identified in Part IV(D)(3)(b).
- I. Impaired waterbody.** An “impaired waterbody” means a waterbody that is not attaining water quality criteria or standards, as determined by the Department.
- J. Maximum Extent Practicable (“MEP”).** “Maximum Extent Practicable” or (“MEP”) means available and feasible considering cost, existing technology, and logistics based on the overall purpose of the project.
- K. Municipal Separate Storm Sewer System (“MS4”).** “Municipal separate storm sewer system” or (“MS4”) means conveyances for stormwater, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works

⁵ Common plan of development or sale has the same meaning as defined in the Maine Construction General Permit.

⁶ See 06-096 CMR 520(2).

⁷ See 38 M.R.S.A. § 466(5) (definition of “direct discharge”) and 06-096 CMR 520 (definition of “point source”).

⁸ See 06-096 CMR 521(9)(b)(14)(x) and 40 CFR 122.26(b)(15).

and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

- L. Notice of Intent (“NOI”).** “Notice of Intent” or “NOI” means a notification of intent to seek coverage under this general permit, as provided in Part III(A), made by the applicant to the Department on an NOI registration form provided by the Department.
- M. Person.** “Person” means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity which creates, initiates, originates or maintains a discharge authorized by this general permit.⁹
- N. Permittee.** “Permittee” means municipality, county, state-or federal entity that operates the storm sewer system authorized under this general permit.
- O. Regulated Small MS4.** “Regulated Small MS4” means any Small MS4 authorized by this general permit including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of this general permit, have been designated by the Department as Regulated Small MS4s. A list of these MS4s is included in Appendix A of this general permit.¹⁰
- P. Small MS4.** “Small MS4” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or Federally-owned systems, such as colleges, universities, prisons, MDOT and MTA road systems and facilities, and military bases and facilities.
- Q. Stormwater.** “Stormwater” means storm water runoff, snowmelt runoff, and surface runoff and drainage. “Stormwater” has the same meaning as “storm water”.
- R. Total Maximum Daily Load (“TMDL”).** “Total Maximum Daily Load” or “TMDL” means the maximum capacity of a surface water to assimilate a pollutant as established by the Department and approved by the U.S. Environmental Protection Agency (“EPA”), consistent with conditions set forth in 40 CFR Part 130 including pollutants contributed by point and non-point sources and a margin of safety.
- S. Urbanized Area (“UA”).** “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

Part III. Procedure

- A. NOI requirements.** Any designated or regulated small MS4 municipality that initiates, creates, originates or maintains a discharge described in Part I of this general permit shall file with the Department a NOI registration form that meets the requirements of Part III of this general permit. The NOI must be submitted no later than 90 days after this general permit becomes effective. The Department may grant up to 60 days extension for the NOI submittal provided that the applicant furnish written justification for such an extension no later than 75 days after this permit becomes effective.
- B. Scope of NOI.** The applicant shall register on one set of NOI forms for all discharges from the regulated small MS4 within the UA that are operated by the municipality.
- C. Contents of NOI**

⁹ See 38 M.R.S.A. § 361-A(4).

¹⁰ No additional MS4s have been designated as of the issuance of this permit

1. **NOI Form.** The NOI must be filed on a form provided by the Department and must include the following.

- a. Name of the municipality and the name, title, address, and telephone number of the chief elected official or principal executive officer.
- b. Name, address, and telephone number of the primary contact person responsible for the stormwater management program.
- c. Name, primary contact, address, and telephone number of any consultant(s) or engineer(s) retained by the municipality to prepare the registration.
- d. Name of receiving stream(s), wetland(s) or waterbody(s) to which the Regulated Small MS4 discharges.

Note: anyone that has submitted a "Part A" NOI prior to the effective date of this general permit does not have to resubmit (b)-(d) above.

- e. For each of the six Minimum Control Measures in Part IV(D), the following information must be included:
 - i. The measurable goal(s) by which each BMP will be evaluated;
 - ii. The person(s) or position(s) responsible for implementing each BMP; and
 - iii. The date by which each BMP will be implemented including as appropriate, time lines and milestones for implementation of BMPs.

Note: Guidance documents that may be used in the development of BMPs and measurable goals include, but are not limited to, the following:

- EPA's BMP menu
- EPA's guidance on Measurable goals
- MDOT's Best Management Practices for Erosion & Sedimentation Control
- Maine's Phase II Municipal Guidance Document

Note: the current web address for the above mentioned guidance materials can be found in Maine's Phase II Municipal Guidance Document

- f. The signature of the applicant's chief elected official or principal executive officer of the municipality and any individual or individuals responsible for actually preparing the NOI registration, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that a false statement knowingly made in the submitted information may be punishable as a criminal offense, in accordance with Maine General Statutes.

I certify that this permit registration is on complete and accurate forms as prescribed by the Department without alteration of the text.

I also certify under penalty of law that I have read and understand all requirements of the General Permit. I certify that all requirements for authorization under the general permit are met and that a system is in place to ensure that all terms and conditions of this general permit will continue to be met for all discharges authorized by this general permit for the municipality. I am aware that there are significant penalties for

submitting false information, including the possibility of fine and imprisonment for knowingly making false statements.”

2. **Filing an NOI registration form.** An NOI registration must be filed with the Department at the following address:

**Stormwater Coordinator
Bureau of Land & Water Quality
Department Of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017**

3. **Additional information.** The Department may require a applicant to submit additional information that the Department reasonably deems necessary to evaluate the consistency of the subject activity with the requirements for authorization under this general permit.

4. **Action by Commissioner**

- a. The Commissioner may deny a registration:
 - i. If the registration does not satisfy the requirements of Part III (C) of this general permit. In the case of such a denial, the applicant shall re-file a modified registration within 30 days; or
 - ii. If more than 30 days have elapsed since the Commissioner requested that the applicant submit additional information and the applicant has not timely and completely submitted such information.
 - iii. The Commissioner shall deny a registration:
 - iv. If the subject activity is ineligible for this general permit, or if the applicant cannot or is unlikely to comply with this general permit; or
 - v. For any other reason provided by law.
- b. Disapproval of a registration constitutes notice to the applicant that the subject activity may not lawfully be conducted or maintained without issuance of an individual MEPDES permit or WDL.
- c. Disapproval of a registration must be in writing.

Part IV. Requirements

The permittee shall at all times continue to meet the requirements for authorization set forth in Part I of this general permit. In addition, the permittee shall assure that authorized activities are conducted in accordance with the following conditions.

- A. **Stormwater program management plan.** The permittee shall develop, implement, and enforce a Stormwater Program Management Plan (the “Plan”) implementing six minimum control measures, set forth in Section D below, which are designed to reduce the discharge of pollutants from its regulated small MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. The Plan must be completed and all Minimum Control Measures fully implemented by June 2, 2008.
- B. **Annual fee.** An annual fee of \$108.00 must be submitted each year, starting June 2, 2004 with the submission of

the annual report. Fees must be paid by check or money order payable to **Treasurer, State of Maine.**

- C. Development of stormwater program management plan.** The Plan must address the six Minimum Control Measures as required in Part IV. The Plan must, at a minimum, include the measures indicated as required within the UA of the municipality. The permittee may also include in the Plan those measures indicated as suggested and any other measures the permittee deems appropriate. Some municipalities may choose to implement required measures or portions thereof throughout the entire municipality, however this general permit only requires implementation of the minimum control measures within the UA.
- D. Minimum control measures.** For each Minimum Control Measure, the permittee shall: define appropriate BMPs; designate a person(s) responsible for each BMP; define a time line for implementation of each BMP; and define measurable goals for each BMP. The Minimum Control Measures to be included in the Plan are as follows.

1. Public education and outreach on stormwater impacts

a. Required

- i. The permittee shall educate municipal/community members on stormwater runoff and its impacts to surface waters.
- ii. Educational efforts must cover industrial, commercial, institutional, governmental and residential activities based on their occurrence in the community, and inform municipal/community members about improper waste disposal and illegal discharges that could pollute waters of the State.
- iii. Outreach materials must aim at raising awareness and ultimately at changing behaviors.
- iv. Outreach messages and topics must target behaviors in the municipality/community that have the highest impact on water quality and quantity, especially in sensitive areas as defined by the State of Maine or the local community. Messages must include steps intended to reduce stormwater pollution from existing and new development. The outreach effort must include a multimedia approach recognizing messages need to be both presented and received in more than one venue to be effective.

b. Suggested

- i. To implement a successful program, the permittee should consider the range of economic and cultural groups within the community and provide them with learning and behavioral changing opportunities.
- ii. The permittee should evaluate the relative importance of various threats to stormwater quality within its jurisdiction. Public education programs should then be prioritized to focus on the most significant threats.
- iii. The permittee should consider existing local, tribal, regional, other MS4s and state programs, both in Maine and elsewhere, as potential resources, and coordinate their activities with local and regional groups, as well as state and federal agencies.

Whenever possible the permittee is encouraged to borrow/use proven effective materials from other sources. By using proven materials, the permittee can save both time and money.

- iv. The permittee should consider intermunicipal agreements to increase the efficiency and effectiveness of their efforts.
- v. Watersheds, streams and rivers frequently cross political boundaries. The Department recommends that

municipalities sharing a common water body pool their time and resources and work together to improve water quality and quantity.

- vi. The permittee should work with local school districts to integrate water quality education into the curriculum.

2. Public involvement and participation

a. Required

- i. The permittee shall comply with applicable state and local Public Notice requirements using effective mechanisms for reaching the public, and comply with the public notice requirements of the Maine Freedom of Access Act, 1 M.R.S.A. §§ 401 et seq. ("FOAA").

b. Suggested

- i. The permittee should identify important stakeholders and encourage their involvement in the Stormwater Management Program.
- ii. The permittee should provide opportunities for public participation in the development, implementation, and review of the MS4's Stormwater Management Program.
- iii. The permittee should consider the range of economic and ethnic groups within the community and encourage their participation in the Stormwater Management Program.

3. Illicit discharge detection and elimination

a. Required

- i. Each permittee shall develop, implement and enforce a program to detect and eliminate illicit discharges and non-stormwater discharges, as defined in 06-096 CMR 521(9)(b)(2), except as provided in Part IV(D)(3)(b) of this permit.
- ii. By June 2, 2008, each permittee shall develop a storm sewer system map showing the location of all stormwater discharges from all stormwater outfalls operated by the regulated small MS4. For each discharge, the following information must be included: type, material, and size of conveyance, outfall or channelized flow (e.g. 24" concrete pipe); the name and location of the immediate surface waterbody or wetland to which the stormwater runoff discharges. If the outfall does not discharge directly to a named waterbody, the name and location of the nearest named waterbody to which the outfall eventually discharges.
- iii. To the extent allowable under State or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-stormwater discharges into the storm sewer system, and implement appropriate enforcement procedures and actions.
- iv. Each permittee shall develop and implement a plan to detect and address non-stormwater discharges, including illicit discharges and illegal dumping, to the system. The plan must include the following three components: procedures for locating priority areas likely to have illicit discharges, procedures for tracing the source of an illicit discharge, and procedures for removing the source of the discharge.

- b. Non-stormwater discharges.** This permit authorizes the following non-stormwater discharges provided they do not contribute to a violation of water quality standards as determined by the Department; these discharges

must be addressed in the Plan if they are identified by the permittee as significant contributors of pollutants to the regulated small MS4.

- landscape irrigation
- diverted stream flows
- rising ground waters
- uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20))
- uncontaminated pumped ground water
- uncontaminated flows from foundation drains
- air conditioning and compressor condensate
- irrigation water
- flows from uncontaminated springs
- uncontaminated water from crawl space pumps
- uncontaminated flows from footing drains
- lawn watering runoff
- flows from riparian habitats and wetlands
- residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used), and
- hydrant flushing and fire fighting activity runoff
- water line flushing and discharges from potable water sources
- individual residential car washing
- dechlorinated swimming pool discharges

4. Construction site stormwater runoff control. Each permittee shall develop, implement, and enforce a program, or modify an existing program, to reduce pollutants in any stormwater runoff to the regulated small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of stormwater discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. The program must include, but not be limited to, the development and implementation of:

- a. Required.** If the permittee chooses to rely on the Maine Construction General Permit ("MCGP"), the program shall include the development and implementation of:
 - i. Procedures for notifying construction site developers and operators of the requirements for registration under the Maine Construction General Permit for the discharge of stormwater associated with construction activities; and
 - ii. Procedures for performing site inspections to ensure projects are in compliance with the MCGP.
- b. Non-reliance on the MCGP.** If the permittee does not choose to rely on the MCGP, the program must include the development and implementation of:
 - i. An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions for non-compliance, to the extent allowable under State or local law;
 - ii. Procedures for notifying construction site developers and operators of the requirements for registration under the MCGP for the discharge of stormwater associated with construction activities;
 - iii. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices in accordance with state law and any local requirements;

- iv. Requirements for construction site operators to control waste at the site such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste that may cause adverse impacts to water quality;
 - v. Procedures for site plan review that incorporate consideration of potential water quality impacts;
 - vi. Procedures for receipt and consideration of information submitted by the public; and
 - vii. Procedures for site inspection and enforcement of control measures.
- c. **Suggested.** The permittee should consider existing state programs that regulate either construction, such as the Maine Construction General Permit, or stormwater, such as the Stormwater Management Law or the Site Law or the Maine Erosion and Sedimentation Control Law that the MS4 can reference or incorporate into a local ordinance.

5. Post-construction stormwater management in new development and redevelopment

a. Required

- i. Each permittee shall develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the MS4. This program shall ensure that controls are in place that will prevent or minimize water quality impacts.
- ii. Each permittee shall develop and implement strategies that include a combination of structural and/or non-structural best management practices (BMPs) appropriate for your community.
- iii. Each permittee shall use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects.
- iv. Each permittee shall ensure adequate long-term operation and maintenance of BMPs.

- b. **Suggested.** The permittee should consider existing state programs that regulate post construction, such as the requirements for managing stormwater quality and quantity as listed in the Stormwater Management Law or the Site Law that the regulated small MS4 can reference or incorporate into a local ordinance.

6. Pollution prevention/good housekeeping for municipal operations

a. Required

- i. The permittee shall develop and implement an operation and maintenance program that includes a training component for municipal employees and contractors and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations.
- ii. Using training materials that are available from the EPA, the State or other organizations, this program must include employee training to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.
- iii. The permittee shall develop and implement a program to sweep all publicly accepted paved streets and publicly owned paved parking lots at least once a year as soon as possible after snowmelt.

- iv. The permittee shall develop and implement a program to evaluate and, if necessary, clean catch basins and other stormwater structures that accumulate sediment at least once a year and dispose of the removed sediments in accordance with current state law.
- v. The permittee shall develop and implement a program to evaluate and, if necessary, prioritize for repairing, retrofitting or upgrading the conveyances, structures and outfalls of the regulated small MS4.

b. Suggested. At a minimum, consider the following in developing your program.

- i. Structural and non-structural stormwater controls to reduce floatables and other pollutants discharged from your separate storm sewers.
- ii. Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations, snow disposal areas, and waste transfer stations.
- iii. Procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris).
- iv. Ways to ensure that new flood and stormwater management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices.
- v. Implement an operation and maintenance plan for all stormwater management structures. This measure is intended to improve the efficiency of these systems and require new programs where necessary.

E. Sharing responsibility

- 1. Qualifying local program.** The permittee may satisfy the requirement to implement a BMP for a Minimum Control Measure by having a third party implement the BMP. For example, if a local watershed organization is organized or funded by the permittee performs an annual “river clean-up”, this event may be used to satisfy a BMP for the Public Participation and the Pollution Prevention and Good Housekeeping Minimum Control Measure.

If the permittee is relying on a third party to implement one or more BMP(s), the permittee shall note that fact in the registration and annual report required in Part IV (J). If the third party fails to implement the BMP(s), the permittee remains responsible for its implementation.

- 2. Qualifying state or federal program.** If a BMP or Minimum Control Measure is the responsibility of a third party under another NPDES or MEPDES permit, the permittee is not required to include such BMP or Minimum Control Measure in its stormwater management program. The permittee shall reference this qualifying program in their Plan. The permittee is not responsible for implementation of a qualifying program if the third party fails to perform. The permittee shall periodically confirm that the third party is still implementing this measure. If the third party fails to implement the measure, the Plan may be modified to address the measure, if necessary.

In the case of a permitted municipal industrial activity, such as a publicly owned treatment works covered by the Multi Sector General Permit, the permittee may reference the activity’s Stormwater Pollution Prevention Plan to address a portion of the permittee’s Plan.

- 3. Co-permittees.** Where a portion of the separate storm sewer system within a municipality is owned, operated or otherwise the responsibility of another regulated small MS4, the two entities may coordinate the development and implementation of their respective Plans to address all elements of Part IV D (1-6). At the very least, a clear

description of their respective responsibilities for these elements must be included in each regulated small MS4's Plan.

For example, a storm sewer system within a municipality may be operated and maintained by the MDOT, University of Maine or other public or quasi-public entity. In cases such as these, the two entities shall cooperate and coordinate their Plans to reduce duplicative efforts to address the Minimum Control Measures, particularly at the interconnections within storm sewer systems. Where an illicit discharge is detected from an outfall near an interface between two storm sewer systems and where there is more than one responsible entity, the two entities shall coordinate their efforts to detect and ultimately eliminate the cause of the illicit discharge. These efforts shall be noted in both the regulated small MS4's annual reports.

F. Signature requirements

1. **Signature.** The Plan must be signed by the chief elected municipal official or principal executive officer. The Plan must be retained by the chief elected official or principal executive officer for the duration of the permit period and copies must be available and retained by municipal officials or employees responsible for implementation of the Plan.
2. **Plan availability.** The permittee shall make a copy of the Plan available to the following immediately upon request:
 - a. The Commissioner of the Department;
 - b. In the case of a regulated small MS4 adjacent to or interconnected with the permittee's storm sewer system, to the operator of that regulated small MS4; and
 - c. In the case of a regulated small MS4 stormwater discharge to a water supply watershed, to the public water supply company.

G. Keeping plans current. The permittee shall keep the Plan current. Circumstances when the Plan must be amended include the following:

1. **Amended plan.** The Plan must be amended if the Department or the permittee determines that:
 - a. The actions required by the Plan fail to ensure or adequately protect against pollution of the waters of the State;
 - b. The Plan does not prevent the potential for a significant contribution of pollutants to waters of the State; or
 - c. The Plan does not meet one or more requirements of this general permit.
2. **Department notification.** The Department shall notify the permittee if Department determines that the Plan must be amended. Within 30 days of such notification, unless otherwise specified by the Department in writing, the permittee shall respond to the Department indicating how the permittee plans to modify the Plan to address these requirements. Within 90 days of this response or within 120 days of the original notification, whichever is less, unless otherwise specified by the Department in writing, the permittee shall revise the Plan. The permittee shall perform all actions required by the revised Plan in accordance with the timelines in the revised Plan, and certify to the Department that the requested changes have been made and implemented.
3. **Permittee information.** The permittee shall provide such information as the Department requires to evaluate the Plan and its implementation.

H. Failure to prepare or amend the plan. Failure to complete or update a Plan in accordance with Part IV(A), (C) and (G) of this general permit does not relieve a permittee of responsibility to implement actions required to protect

the waters of the State and to comply with all conditions of this general permit.

I. Evaluation and assessment

1. **Required.** The permittee shall evaluate program compliance, the appropriateness of identified best management practices, and progress towards achieving identified measurable goals.
2. **Suggested.** To evaluate the progress towards achieving the overall goals of this general permit, the permittee should consider implementing a monitoring program at a selected number of stormwater outfalls. The program should be designed to monitor long-term variations in stormwater quality. The monitoring program should be conducted at a selected number of outfalls representative of the respective land use types (residential, industrial, commercial) and determine if the storm sewer has any illicit connections from a sanitary sewer by monitoring for bacteria.

J. Reporting and record keeping requirements

1. The permittee shall keep records required by this permit for at least three (3) years following its expiration, or longer if requested by the Commissioner. The permittee shall make records, including the Stormwater Management Plan, available to the public at reasonable times during regular business hours.

By June 2, 2004 and annually thereafter by June 2, the permittee shall submit a report for the Department's review and approval to:

**Stormwater Coordinator
Bureau of Land & Water Quality
Department Of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017**

The report must include the following.

- a. The annual fee of \$108.00.
- b. The current copy of the Plan (including a detailed implementation schedule), status of compliance with permit conditions, an assessment of the appropriateness of identified best management practices and progress towards achieving identified measurable goals for each of the Minimum Control Measures.
- c. Results of information collected and analyzed, including monitoring data, if any, during the reporting period.

- d. A summary of the stormwater activities the permittee intends to undertake pursuant to its Plan during the next reporting cycle.
- e. A change in any identified BMPs or measurable goals that apply to the Plan.
- f. A summary describing the activities, progress, and accomplishments for each of the minimum control measures #1 through #6 (including such items as the number and nature of enforcement actions, inspections, public involvement activities, detected illicit discharges, detected illicit connections, illicit discharges that were eliminated, and public education ventures).

2. Changes to the report based on the Department's review comment(s) must be submitted to the Department within 30 days of the receipt of the comment(s).

3. **Suggested.** Provide an estimate of annual expenditures for permit compliance for the reporting period and projected budget for the following year.¹¹

K. Impaired waters and total maximum daily load (TMDL). If the waterbody to which a discharge drains is impaired and has an EPA approved TMDL, then the discharge must be consistent with the TMDL waste load allocation and any implementation plan. If a TMDL is approved or modified by EPA subsequent to the effective date of this general permit, the Department shall notify the permittee and may require any of the following.

- 1. Require the permittee to review its Plan for consistency with the TMDL, and propose any necessary modification to the Plan to the Department within six months of the receipt of notification concerning the TMDL.
- 2. Issue a watershed-specific general permit for the area draining to the impaired waterbody. The watershed-specific MS4 general permit may reference parts of this general permit.
- 3. Require an individual permit.

PART V. Standard Conditions

A. Notice required. Prior to discharging under the terms of a General Permit, a person must file with the Department an initial Notice of Intent (NOI) for coverage on a form provided by the Department for the specific discharge category. A copy of the initial NOI form shall be provided to the municipal office of the town or city in which the discharge will occur at the time it is submitted to the Department.

B. Effective date of coverage. The Department must notify an applicant for coverage under a General Permit within 14 days of receipt of each complete NOI as to whether or not coverage for the specific discharge is accepted. If the Department does not notify the applicant within 14 days, the NOI is deemed to be accepted and coverage is granted. In the event coverage is not granted, the Department shall notify the applicant of the reasons for not granting coverage. Discharges not acceptable for General Permit coverage may apply for issuance of an individual discharge permit.

¹¹ The collection of expenditure data by the Department is solely for the purpose of determining generic program costs not as a measure of the permittee's program compliance or effectiveness. The Department recognizes that expenditure data tracking and reporting methodology may vary from one reporting entity to another, as well as over time, and will assess any data for its validity, relevance and utility as it pertains to the purpose stated above.

C. Continuing coverage. Coverage under an existing General Permit will be continued upon payment of a \$108.00 annual fee, provided there are no changes in the discharge as described in the NOI. If changes occur or are proposed, the person having filed the NOI must notify the Department, as specified in the General Permit. Upon reissuance of a new General Permit, persons wishing to continue coverage must submit a new NOI to the Department.

D. General restrictions. A discharge covered by a General Permit may not:¹²

1. Contain any pollutant, including toxic substances, in quantities or concentrations, which may cause or contribute to any adverse impact on the receiving water;
2. Be to a receiving water which is not meeting its classification standard for any characteristic which may be affected by the discharge; or
3. Impart color, taste, turbidity, radioactivity, settleable materials, floating substances or other properties that cause the receiving water to be unsuitable for the designated uses ascribed to its classification.

E. Removed substances. Solids, sludges, filter backwash or other pollutants removed or resulting from the treatment of wastewaters shall be disposed of in a manner approved by the Department.

F. Other applicable conditions. The conditions in 06-096 CMR 523(2) also apply to discharges pursuant to this general permit¹³ and are incorporated herein as if fully set forth. These conditions address areas such as: duty to comply; need to reduce or halt activity not a defense; duty to mitigate; permit actions; property rights; duty to provide information; and inspection and entry.

G. Monitoring requirement. The Department may require monitoring of an individual discharge as may be reasonably necessary in order to characterize the nature, volume or other attributes of that discharge or its sources.

H. Other information. When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Department, he or she shall promptly submit such facts or information.-

I. Endangered species. Pursuant to 12 M.R.S.A. § 7755-A, A state agency or municipal government shall not permit, license, fund or carry out projects that will:

1. Significantly alter the habitat identified under section 7754 subsection 2 of any species designated as threatened or endangered under this subchapter; or
2. Violate protection guidelines set forth in section 7754, subsection 3.

¹² The text for this provision is from Chapter 529(3)(e)(3)-(4). However, Chapter 529(3)(1) and (2) includes two additional prohibitions that have not been listed in this general permit. These prohibitions were not included because they have effectively been superceded by statutory amendments subsequent to the date Chapter 529 was last amended. See 38 MRSA §465-A(1)(C)(Class GPA waters); 38 MRSA 465(1)(C)(Class AA waters); PL 2003, ch. 318, sections 3 and 4 (Class A waters); 38 MRSA 465-B(1)(C)(Class SA waters); and PL 2003, ch. 318, section 2 (10 sq. mi. watersheds).

¹³ See 06-096 CMR 529(3)(I)

- J. Individual permit or alternative general permit.** When an individual permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative general permit, the applicability of this permit to the individual permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual permit is denied to an operator otherwise subject to this permit, or the operator is denied for coverage under an alternative general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

Appendix A

Regulated Small MS4 Municipalities

Auburn
Bangor
Berwick
Biddeford
Brewer
Cape Elizabeth
Cumberland
Eliot
Falmouth
Freeport
Gorham
Hampden
Kittery
Lewiston
Milford
Old Orchard Beach
Old Town
Orono
Portland
Sabattus
Saco
Scarborough
South Berwick
South Portland
Veazie
Westbrook
Windham
Yarmouth

Appendix B

CATEGORY 5-A: RIVERS AND STREAMS IMPAIRED BY POLLUTANTS OTHER THAN THOSE LISTED IN 5-B THROUGH 5-D (TMDL REQUIRED) (*Urban NPS only*)

ASSESSMENT UNIT (HUC)	WATERBODY ID	SEGMENT NAME	SEGMENT SIZE	SEGMENT CLASS	MONITORED DATE	IMPAIRED USE	CAUSE(S)	POTENTIAL SOURCE(S)	TMDL SCHEDULE
ME0102000509	226R03	Penjajawoc Stream (Bangor) Meadow Bk (Bangor)	6.3	Class B	2001	Aquatic life (Meadow Bk – Threatened)	Aq life criteria Dissolved oxygen	Urban NPS, Habitat	2004
ME0102000510	224R04	Unnamed Stream near Ohio St (Bangor)	0.5	Class B	2001	Aquatic life	Aq life criteria	Urban NPS	2004
ME0102000510	224R05	Unnamed (Pushaw) Stream (Bangor)	0.5	Class B	2001	Aquatic life	Aq life criteria	Urban NPS	2004
ME0102000510	224R06	Unnamed Stream near Valley Ave (Bangor)	0.5	Class B	1997	Aquatic life	Aq life criteria	Urban NPS	2004
ME0102000511	225R01	Shaw Brook (Bangor, Hampden)	5.5	Class B	2001	Aquatic life	Aq life criteria	Urban NPS	2008
ME0104000208	413R01	Jepson Brook (Lewiston)	3.0	Class B	Evaluated	Aquatic life	Dissolved oxygen	Urban NPS, Habitat	2008
ME0104000208	413R04	Logan Brook (Auburn)	1.0	Class B	Evaluated	Aquatic life Recreation	Dissolved oxygen Bacteria	Urban NPS, Habitat	2008
ME0104000208	413R06	Goff Bk (Lewiston)	1.0	Class B	Evaluated	Aquatic life Recreation	Habitat, Bacteria	Urban NPS, Habitat	2008
ME0104000208	413R07	Gully Brook (Lewiston)	0.1	Class B	Evaluated	Aquatic life Recreation	Habitat, Bacteria	Urban NPS, Habitat	2008
ME0104000208	413R08	Lake Auburn Outlet (Auburn)	1.5	Class B	1998	Aquatic life	Aq life criteria	Urban NPS, Habitat	2008
ME0104000210	419R02	Dill Bk (Lewiston)	1.0	Class B	1998	Aquatic life	Aq life criteria	Urban NPS, Habitat	2008
ME0104000210	419R01	Unnamed stream (Lisbon Falls at Rt 196)	0.5	Class B	1998	Aquatic life	Aq life criteria	Urban NPS	2008

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ASSESSMENT UNIT (HUC)	WATERBODY ID	SEGMENT NAME	SEGMENT SIZE	SEGMENT CLASS	MONITORED DATE	IMPAIRED USE	CAUSE(S)	POTENTIAL SOURCE(S)	TMDL SCHEDULE
ME0106000104	611R02	Phillips Brook (Scarborough)	1.5	Class C	Evaluated	Aquatic life	Dissolved oxygen	Urban NPS	2008
ME0106000105	610R01	Capisic Brook (Portland)	3.0	Class C	1999	Aquatic life	Aq life criteria	Urban NPS, Habitat	2008
ME0106000105	610R03	Long Creek (South Portland)	3.5	Class C	1999	Fishing Aquatic life	Aq life criteria	Urban NPS, Habitat	2004
ME0106000105	610R05	Trout Brook (South Portland)	2.9	Class C	1999	Aquatic life	Aq life criteria	Urban NPS	2012
ME0106000105	610R06	Kimball Brook (South Portland)	1.5	Class C	1997	Aquatic life	Aq life criteria	Urban NPS	2012
ME0106000105	610R07	Red Brook (Scarborough, S Portland)	4.6	Class C	1999	Aquatic life Fishing (consumption)	Aq life criteria PCBs	Urban NPS, Waste disposal	2012
ME0106000105	610R08	Fall Bk (Portland)	2.5	Class C	1997	Aquatic life	Aq life criteria	Urban NPS	2012
ME0106000105	610R09	Barberry Cr (South Portland)	1.0	Class C	1999	Aquatic life	Aq life criteria	Urban NPS	2012
ME0106000106	602R01	Frost Gully Brook (Freeport)	3.0	Class A	2000	Aquatic life Recreation	Dissolved oxygen Bacteria	Urban NPS	2004
ME0106000106	612R01	Goosefare Brook (Saco)	6.1	Class B	2001	Aquatic Life	Aq life criteria, metals	Urban NPS, Waste disposal	drafted

CATEGORY 5-B: RIVERS AND STREAMS IMPAIRED ONLY BY BACTERIA

LOW PRIORITY RECREATIONAL WATERS (*Urban NPS only*)

ASSESSMENT UNIT (HUC)	WATERBODY ID	SEGMENT NAME	SEGMENT SIZE	SEGMENT CLASS	MONITORED DATE	IMPAIRED USE	CAUSE(S)	POTENTIAL SOURCE(S)
ME0103000306	320R02	Currier Brook	3.2	Class B	Evaluated	Recreation	Bacteria	Urban NPS
ME0106000211	616R02	Tappan Bk	0.5	Class B	Evaluated	Recreation	Bacteria	Urban NPS
ME0106000211	616R03	Sawyer Bk	0.5	Class B	Evaluated	Recreation	Bacteria	Urban NPS
ME0106000211	616R04	Bear Bk	0.5	Class B	Evaluated	Recreation	Bacteria	Urban NPS, CSO
ME0106000211	616R05	Thatcher Bk (Biddeford)	5.7	Class B	Evaluated	Recreation	Bacteria	Urban NPS, CSO
ME0106000301	622R01	Kennebunk River	3.1	Class B	Evaluated	Recreation	Bacteria	Urban NPS

This general permit may be reopened to include or delete specific waterbodies or segments based upon new information. Reopening the general permit for this purpose is subject to the requirements in 38 MRSA 414-A (5), including notice to interested parties of record and opportunity for hearing. Actions may be appealed as provided in 38 MRSA 341-D and 346.